

STATE OF INDIANA)
) SS:
COUNTY OF MARION)

IN THE MARION SUPERIOR COURT
CAUSE NO. 49D01-0806-MI-029116

STATE OF INDIANA,
Plaintiff,

v.

VIRGINIA L. HOFFMAN and
DANE A. LASTER, individually and
dba Tan Mart, Inc., tanmartinc.com,
Lotion Town aka lotiontown.com
aka Tanning Products aka
lotiontownservice@yahoo.com aka
Indoor Tanning Lotion, Best Indoor
Tanning Lotion aka Best Tanning Lotion
aka besttanninglotion@yahoo.com,
bestindoortanninglotion.com aka
besttanning@yahoo.com, bestanning.com,
and Cheaper Lotions, and
TRINA S. HASTY, individually and dba
Payless Lotions aka paylesslotions.com
aka paylesslotions@yahoo.com aka
Wholesale Tanning Lotion
Defendants.

FILED

AUG 5 - 2008

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Elizabeth J. White
CLERK OF THE MARION CIRCUIT COURT

**FIRST AMENDED COMPLAINT FOR INJUNCTION,
RESTITUTION, COSTS, AND CIVIL PENALTIES**

The Plaintiff, State of Indiana, by Attorney General Steve Carter and Deputy Attorney General Thomas Irons, petitions the Court pursuant to the Indiana Deceptive Consumer Sales Act, Indiana Code § 24-5-0.5-1, *et seq.*, for injunctive relief, consumer restitution, investigative costs, civil penalties, and other relief.

PARTIES

1. The Plaintiff, State of Indiana, is authorized to bring this action and to seek injunctive and other statutory relief pursuant to Ind. Code § 24-5-0.5-4(c).

2. At all times relevant to this Complaint, the Defendant, VIRGINIA L. HOFFMAN, individually and dba Tan Mart, Inc., tanmartinc.com, Lotion Town aka lotiontown.com aka Tanning Products aka lotiontownservice@yahoo.com aka Indoor Tanning Lotion, Best Indoor Tanning Lotion aka Best Tanning Lotion aka besttanninglotion@yahoo.com, bestindoortanninglotion.com aka besttanning@yahoo.com, bestanning.com, and Cheaper Lotions (hereinafter VIRGINIA) was an individual regularly engaged in the solicitation and sale of tanning lotions, oils and other products to consumers via the internet, among other means. VIRGINIA resides in Marion County at 6564 Hi Vu Drive, Indianapolis, Indiana 46227.

3. At all times relevant to this Complaint, the Defendant, DANE A. LASTER, individually and dba Tan Mart, Inc., tanmartinc.com, Lotion Town aka lotiontown.com aka Tanning Products aka lotiontownservice@yahoo.com aka Indoor Tanning Lotion, Best Indoor Tanning Lotion aka Best Tanning Lotion aka besttanninglotion@yahoo.com, bestindoortanninglotion.com aka besttanning@yahoo.com, bestanning.com and Cheaper Lotions (hereinafter DANE) was an individual regularly engaged in the solicitation and sale of tanning lotions, oils and other products to consumers via the internet, among other means. DANE is VIRGINIA's son. DANE resides in Johnson County at 933 Beech Drive, Greenwood, Indianapolis, 46142.

4. At all times relevant to this Complaint, the Defendant, TRINA S. HASTY, individually and dba Payless Lotions aka paylesslotions.com aka paylesslotions@yahoo.com aka Wholesale Tanning Lotion (hereinafter TRINA) was an individual regularly engaged in the solicitation and sale of tanning lotions, oils and other products to consumers via the internet, among other means. TRINA resides in Marion County at 7475 East 16th Street, Indianapolis, Indiana 46219.

5. When, in this Complaint, reference is made to any act of TRINA, VIRGINIA or DANE (collectively referred to hereinafter as “Defendants”), such allegations shall be deemed to mean that the principals, agents, representatives, or employees of Defendants did or authorized such acts to be done while actively engaged in the management, direction, or control of the affairs of Defendants and while acting within the scope of their duties, employment, or agency.

FACTS

A. General Allegations

6. On or about March 1998, VIRGINIA filed Articles of Incorporation with the Indiana Secretary of State’s Office to incorporate a business named Tan Mart, Inc. (“Tan Mart”).

7. Tan Mart was administratively dissolved on or about February 8, 2002.

8. Thereafter VIRGINIA and DANE, dba Tan Mart and tanmartinc.com, engaged in the solicitation and sales of tanning beds and lotions, among other activities, from locations that initially included the basement of a residence and later from various offices on Madison Avenue in Greenwood, Indiana.

9. In 1996 and thereafter, Tan Mart and/or tanmartinc.com provided tanning product inventory to the internet sites identified above, including, but not limited to lotiontown.com, bestindoortanninglotion.com, bestanning.com, and paylesslotions.com.

10. Presently, the tanmartinc.com website solicits and sells tanning beds and the site has direct links to Defendants' bestindoortanninglotion.com, lotiontown.com, bestanning.com and paylesslotions.com websites.

11. Upon information and belief, other than Tan Mart, which was dissolved in 2002, Defendants have not filed any documents with the Indiana Secretary of State in connection with the formation or registration of any of the dba business entities identified above.

12. At all times relevant to this Complaint, Defendants have used, maintained and/or operated internet websites to represent, advertise, solicit and/or sell tanning lotions, oils and other products to consumers.

13. At all times relevant to this Complaint, consumers ordered and paid Defendants for Defendants' advertised products via the internet and Defendants' websites and Defendants thereafter immediately charged consumers' credit cards.

14. Despite payment by consumers to Defendants for tanning lotions, oils and other products, Defendants failed to deliver the items.

15. At all times relevant to this Complaint, VIRGINIA and DANE's lotiontown.com website listed contact information including but not limited to, 390 North Madison Avenue, Suite #102, Greenwood, Indiana 46142 and 7915 South Emerson Avenue, Suite B #305, Indianapolis, Indiana 46231, with a telephone number for billing inquiries at (317) 786-2953.

16. At all times relevant to this Complaint VIRGINIA and DANE, dba Lotion Town and Lotion Town Tanning, represented to have had or have a “business address” of 390 North Madison Avenue, Suite 102, Greenwood, Indiana 46142 with a phone number listed as (317) 882-1834. Presently there is no signage or business in operation at that location.

17. At all times relevant to this Complaint, VIRGINIA and DANE’s bestindoortanninglotion.com website, like their lotiontown.com website, listed contact information as 390 North Madison Avenue, Suite #102, Greenwood, Indiana 46142 and more recently as Lotion Town, 7915 South Emerson Avenue, Suite B #305, Indianapolis, Indiana 46231, with a telephone for billing inquiries listing (317) 786-2953.

18. “Suite B #305” referred to in the lotiontown.com and bestindoortanninglotion.com websites is nothing more than mailbox #305 at UPS Store #3103, located at 7915 South Emerson Avenue, Indianapolis.

19. Since May 2007, mailbox #305 was leased to VIRGINIA for personal use.

20. At all times relevant to this Complaint, VIRGINIA and DANE’s bestanning.com website listed contact information as 5140 Madison Avenue #6, Indianapolis, Indiana 46227 with phone (317) 786-2953, a number also provided by the lotiontown.com website.

21. On or about April 2008, TRINA leased mailbox #104 at UPS Store #3103, located at 7915 South Emerson Avenue, Indianapolis, for personal reasons and provided an address on the application of 5140 Madison Avenue, Ste 6, Indianapolis, Indiana 46227, the same address provided by the bestanning.com website.

22. DANE is also authorized to use mailbox #104 at UPS Store #3103, located at 7915 South Emerson Avenue.

23. Incoming mail to mailbox #104 at UPS Store #3103 has been addressed to "Best Indoor Tanning," among other names.

24. The phone number (317) 786-2953 is referred as a billing inquiry number on versions of both the lotiontown.com and bestanning.com websites.

25. At all times relevant to this Complaint, TRINA's paylesslotions.com website lists contact information as 973 North Shadeland Avenue, Suite 316, Indianapolis, Indiana 46219, with a phone number of 317-375-0899.

26. "Suite 316" referred to in the paylesslotions.com website is nothing more than mailbox #316 at UPS Store #2845, located at 973 North Shadeland Avenue, Indianapolis.

27. Since May 2007, mailbox #316 at UPS Store #2845 was leased by TRINA's aunt, which lease also authorizes TRINA to use the mailbox.

28. At all time relevant to this Complaint, Defendants' internet sites identified above are virtually identical in the goods and services offered, solicited, and represented to consumers.

29. At all times relevant to this Complaint, Defendants' websites represented and led consumers to believe that products "usually ship the same business day" and stated on another page entitled "about us" that they would "strive" to ship ordered items in one to two days, but that in no case would shipping be delayed more than thirty (30) days after payment was received. The consumer complaints referred to below reflect failures on Defendants' part to ship items that consumers had previously paid for.

30. The Postal Inspector has recently received complaints against bestanning.com at 7915 South Emerson Avenue suite B#305, Indianapolis, including a complaint by a consumer from Middletown, Pennsylvania that arose from VIRGINIA and DANE's failure to deliver products despite payment by the consumer.

31. A consumer internet site named Ripoff Report has recently received complaints regarding non-delivery of products against: Best Indoor Tanning aka Bestanning at 7915 South Emerson Avenue B#305 in Indianapolis, Indiana; Payless Lotions at 973 North Shadeland Avenue #316 in Indianapolis, Indiana; Tanning Products at 5140 Madison Avenue #6 in Indianapolis, Indiana; and lotiontown.com at 390 North Madison Avenue in Greenwood, Indiana.

32. The Better Business Bureau has received multiple consumer complaints regarding the non-delivery of products from Lotion town aka Cheaper Lotions aka lotiontown.com at 390 North Madison Avenue, Greenwood, Indiana; Best Indoor Tanning Lotion aka bestanning.com at 7915 South Emerson Avenue B#305, Indianapolis, Indiana; and Payless Lotions aka paylesslotions.com at 973 North Shadeland Avenue #316, Indianapolis, Indiana.

33. Plaintiff expects additional consumer complaints to be filed and will amend this Complaint to any additional consumers, as appropriate.

34. Defendants' use of multiple web sites and confusing and misleading contact information has made it exceedingly difficult for customers to seek and obtain redress for Defendants' failure to deliver ordered items.

35. Recent consumer complaints brought to the Office of the Attorney General's attention typically relate to an inability to reach Defendants and/or what appears to be an intentional failure to reply to customer calls and emails to Defendants.

36. Based on Defendants' advertising, solicitation and representations, consumers including, but not limited to the following, purchased tanning oils and similar consumer items from the Defendants on or about the following dates and amounts, but never received the products:

- | | | |
|----|--|------------|
| a) | John Metzner
Savage, Minnesota, October 14, 2007 | \$68.98; |
| b) | Charles R. Hutchens
Mooresville, Indiana, December 5, 2007 | \$54.74; |
| c) | Michael J. Grzonka
Gastonia, North Carolina, January 31, 2008 | \$101.98; |
| d) | Gail Turner
Helena, Alabama, February 22, 2008 | \$116.94; |
| e) | Deborah Marie Knapp
Summerville, South Carolina, March 10, 2008 | \$50.00; |
| f) | Rosemarie Paulk
Lawrenceville, Georgia, March 13, 2008 | \$62.98; |
| g) | Rex Ragan
Oklahoma City, Oklahoma, March 25, 2008 | \$37.75; |
| h) | Sara Rand
Lake St. Louis, Missouri, March 26, 2008 | \$38.33; |
| i) | Jill E. Carnahan
Manchester, Kentucky, April 9, 2008 | \$175. 49; |
| j) | Chelsie C. Graves
Loganville, Georgia, April 23, 2008 | t/b/d; |
| k) | Stephen R. Lawrence
Crosby, Texas, May 1, 2008 | \$63.53 |

l)	Joshua Jackson Lakeland, Florida, May 5, 2008	\$50.00;
m)	Clara J. Toomey Ocean View, Delaware, May 5, 2008	t/b/d;
n)	Jack H Graff, Sr. New Albany, Indiana, May 21, 2008	\$70.35;
o)	Trudy Grimes Los Lunas, New Mexico, May 27, 2008	\$153.00;
p)	Pamela J Benishek Brooklyn, Iowa, May 29, 2008	\$134.80;
q)	Maria A. Diez Fishers, Indiana, May 30, 2008	t/b/d;
r)	Roberta Keil Greencastle, Indiana, June 8, 2008	\$38.25;
s)	Katie M O'Connor Portland, Oregon, June 9, 2008	\$101.45;
t)	Kimberly Readdick Offerman, Georgia, June 10, 2008	t/b/d;
u)	Jerri Lindsey Bossier City, Louisiana, June 11, 2008	\$110.38;
v)	Laura Looney Jefferson City, Missouri, June 13, 2008	\$68.75;
w)	Barbara J. Hampton Fairland, Indiana, June 15, 2008	\$22.24;
x)	Anne M. Turner Massillon, Ohio, June 16, 2008	\$48.89;
y)	Angela Rollwage Providence Village, Texas, June 17, 2008	\$37.69;
z)	Melissa Meaux Denham Springs, Louisiana, June 17, 2008	\$31.94;

aa)	Deborah Southard Pittsfield, Massachusetts, June 20, 2008	\$33.89;
bb)	Rebecca Meirre Miami, Florida, June 24, 2008	\$82.28;
cc)	Dorenda Michalina Creedmore, North Carolina, June 27, 2008	\$33.88;
dd)	Karla A. Franklin Youngsville, North Carolina, July 7, 2008	t/b/d; and
ee)	Denise J. Allen Sabattus, Maine, July 11, 2008	t/b/d

TOTAL: \$1,776.09

37. At the times the Defendants solicited, advertised and/or made representations in connection with the delivery of items ordered and paid for by consumers, they knew or should have known that the solicitations, advertisements and/or representations were misleading, deceptive, false and/or untrue.

38. At the times Defendants transacted with consumers, including those specifically identified above in paragraph 36, the Defendants made representations and solicitations they knew or should have known were misleading, deceptive, false and/or untrue.

39. Defendants have yet to deliver items ordered and paid for by consumers or provide refunds to aggrieved consumers, including but not limited to those identified in paragraph 36, above.

COUNT I - VIOLATIONS OF THE DECEPTIVE CONSUMER SALES ACT

40. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 39 above.

41. The transactions identified above, including those specifically identified in paragraph 36, are “consumer transactions” as defined by Ind. Code § 24-5-0.5-2(a)(1).

42. The Defendants are “suppliers” as defined by Ind. Code § 24-5-0.5-2(a)(3).

43. By representing expressly or by implication to consumers, including but not limited to the consumers identified in this Complaint above, that products “usually ship the same business day” and that they would “strive” to ship ordered items in one to two days, but that in no case would shipping be delayed more than thirty (30) days after payment was received or ship within a reasonable period of time, when the Defendants knew or reasonably should have known the items would not be so delivered so as to complete the transaction within the stated or a reasonable period of time, the Defendants violated the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(10).

44. By representing that consumers, including, but not limited to those identified in this Complaint above, would be able to purchase items or products solicited, advertised and/or represented by the Defendants, including but not limited to those items or products identified and referenced above, when the Defendants did not intend to sell or otherwise provide the items or products, the Defendants violated the Indiana Deceptive Consumer Sales Act, Ind. Code § 24-5-0.5-3(a)(11).

**COUNT II – KNOWING AND INTENTIONAL VIOLATIONS OF
THE DECEPTIVE CONSUMER SALES ACT**

45. The Plaintiff realleges and incorporates by reference the allegations contained in paragraphs 1 through 44 above.

46. The misrepresentations and deceptive acts set forth above were committed by the Defendants with knowledge and intent to deceive.

RELIEF

WHEREFORE, the Plaintiff, State of Indiana, requests the Court enter judgment against the Defendants, VIRGINIA L. HOFFMAN and DANE A. LASTER, individually and dba Tan Mart, Inc., tanmartinc.com, Lotion Town aka lotiontown.com aka Tanning Products aka lotiontownservice@yahoo.com aka Indoor Tanning Lotion, Best Indoor Tanning Lotion aka Best Tanning Lotion aka besttanninglotion@yahoo.com, bestindoortanninglotion.com aka besttanning@yahoo.com, bestanning.com, and Cheaper Lotions, and TRINA S. HASTY, individually and dba Payless Lotions aka paylesslotions.com aka paylesslotions@yahoo.com aka Wholesale Tanning Lotion, enjoining the Defendants from the following:

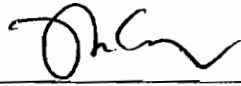
- a. representing, expressly or by implication that the Defendants are able to deliver or complete the subject of a consumer transaction within a stated or reasonable period of time, when the Defendants know or reasonably should know they cannot; and
- b. representing expressly or by implication that consumers will be able to purchase the subject of a consumer transaction as advertised by the Defendants, if the Defendants do not intend to sell it.

AND WHEREFORE, the Plaintiff, State of Indiana, further requests the Court enter judgment against the Defendants for the following relief:

- c. cancellation of any and all unlawful consumer transactions and/or contracts, including but not limited to those consumer transactions and/or contracts entered into with those persons identified in this Complaint above, pursuant to Ind. Code § 24-5-0.5-4(d);
- d. consumer restitution for money unlawfully received from aggrieved consumers, including, but not limited to the persons identified in this Complaint above, pursuant to Ind. Code § 24-5-0.5-4(c)(2);
- e. costs pursuant to Ind. Code § 24-5-0.5-4(c)(3), awarding the Office of the Attorney General its reasonable expenses incurred in the investigation and prosecution of this action;
- f. on Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-4(g) for the Defendants' knowing violations of the Deceptive Consumer Sales Act, in the amount of Five Thousand Dollars (\$5,000.00) per violation, payable to the State of Indiana;
- g. on Count II of the Plaintiff's Complaint, civil penalties pursuant to Ind. Code § 24-5-0.5-8 for the Defendants' intentional violations of the Deceptive Consumer Sales Act, in the amount of Five Hundred Dollars (\$500.00) per violation, payable to the State of Indiana; and
- h. all other just and proper relief.

Respectfully submitted,

STEVE CARTER
Indiana Attorney General
Atty. No. 4150-64

By: 
Thomas Irons
Deputy Attorney General
Atty. No. 19822-49

Office of the Attorney General
Consumer Protection Division
302 West Washington St., IGCS 5th Floor
Indianapolis, IN 46204
Telephone: (317) 233-9923

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a copy of the above First Amended
Complaint for Injunction, Restitution, Costs, and Civil Penalties was mailed by United
States Mail, first class postage prepaid, on this 5 day of August, 2008, to:

Trina S. Hasty
7475 East 16th Street
Indianapolis, Indiana 46219

Dane A. Laster
933 Beech Drive
Indianapolis, 46142

Wendy J. Hasty
334 North Grant Avenue
Indianapolis, Indiana 46201.

Virginia L. Hoffman
6564 Hi Vu Drive
Indianapolis, Indiana 46227


Thomas Irons

Office of the Attorney General
Indiana Government Center South
302 West Washington, 5th Floor
Indianapolis, Indiana 46204